

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Sep 13, 2024**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

SUNDANCE SLOPE, LLC, a Washington

limited liability company,

Plaintiff,

v.

TROUT-BLUE CHELAN-MAGI, LLC, a

Washington limited liability corporation;

and EDWARD JOHNSON, former chief

executive officer of Trout-Blue Chelan-

MAGI, Inc. and Trout-Blue Chelan-MAGI,

LLC,

Defendants.

No. 2:23-CV-00083-SAB

**ORDER GRANTING MOTION  
FOR RECONSIDERATION**

Before the Court is Plaintiff's Motion for Reconsideration, ECF No. 99. Plaintiff is represented by Carl Hueber, Christine M.H. Meegan, Collette Leland, and Darren Digiacinto. Defendants are represented by Nathan Alexander, Nathan Yalanda Bishop, and Shawn Bright-Larsen. The motion was considered without oral argument.

Plaintiff moves for reconsideration and/or clarification of the Court's Order Denying Motion to Compel, ECF No. 98. Specifically, Plaintiff requests the Court grant Plaintiff's Renewed Motion to Compel filed on May 22, 2024, ECF No. 77,

**ORDER GRANTING MOTION FOR RECONSIDERATION # 1**

1 and require Defendants to provide full and complete initial disclosures and  
2 responses to Plaintiff's Requests for Production. Upon review, and being fully  
3 informed, the Court grants the motion and vacates its previous decision as to the  
4 motion to compel.

### 5 **Background**

6 The Court denied Plaintiff's Motion to Compel on July 3, 2024, ECF No.  
7 98. Plaintiff's Motion to Compel, Renewed Motion to Compel, and Defendants'  
8 Motion to Quash were filed close in time to each other. The motions to compel and  
9 the motion to quash are substantively separate and distinct. The motion to quash  
10 pertained to the third-party subpoenas only, which were addressed by the Court in  
11 the July 3, 2024 Order. However, Plaintiff's motions to compel related only to  
12 Defendants' refusal to respond to discovery requests, which were not addressed in  
13 the Order.

14 As to the previous motion to compel, Plaintiff moved the Court to compel  
15 Defendants to provide full and complete initial disclosures and responses to  
16 Plaintiff's Requests for Production ("RFPs"). Plaintiff served its RFPS on  
17 Defendant Trout Blue Chelan-MAGI ("Chelan Fruit") on January 4, 2024. Chelan  
18 Fruit responded that the RFPs were burdensome, sought irrelevant information,  
19 and alleged that each responsive document were separate requiring additional  
20 requests. After some deliberation, Chelan Fruit produced a total of 1,105 pages in  
21 March 2024 and then stopped. Chelan Fruit advised Plaintiff it has additional  
22 responsive documents, but that it deems these confidential; and they will not be  
23 produced unless Plaintiff agrees to Chelan Fruit's proposed confidentiality  
24 agreement.

25 Plaintiff believes that Chelan Fruit's proposed confidentiality agreement is  
26 overbroad. After some deliberation as to new language in the confidentiality  
27 agreement, the Parties still disagree as to the scope of the RFPs.

1 The RFPs at issue relate to documents and communications that are relevant  
 2 to Chelan Fruit's alleged interference with Plaintiff's contract with Cameron  
 3 Nursey for the purpose of 28,500 SugarBee® trees, the alleged pattern and  
 4 retaliation and intimidation by Chelan Fruit against Plaintiff and other growers, the  
 5 SugarBee® Program central to this matter, and whether Defendants selectively  
 6 applied and interpreted the policies and terms governing the SugarBee® program.

### 7 8 **Legal Standard**

9 Reconsideration is an "extraordinary remedy, to be used sparingly in the  
 10 interests of finality and conservation of judicial resources." *Kona Enterprises, Inc.*  
 11 *v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). A motion for  
 12 reconsideration may be reviewed under either Federal Rule of Civil Procedure  
 13 59(e) (motion to alter or amend a judgment) or 60(b) (relief from judgment). *Sch.*  
 14 *Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). "A district court  
 15 may properly reconsider its decision if it '(1) is presented with newly discovered  
 16 evidence, (2) committed clear error or the initial decision was manifestly unjust, or  
 17 (3) if there is an intervening change in controlling law.'" *Smith v. Clark Cnty. Sch.*  
 18 *Dist.*, 727 F.3d 950, 955 (9th Cir. 2013) (quoting *Sch. Dist. No. 1J*, 5 F.3d at 1263).  
 19 "There may also be other, highly unusual, circumstances warranting  
 20 reconsideration." *Sch. Dist. No. 1J*, 5 F.3d at 1263. Whether to grant a motion for  
 21 reconsideration is within the sound discretion of the court. *Navajo Nation v.*  
 22 *Confederated Tribes and Bands of the Yakima Nation*, 331 F.3d 1041, 1046 (9th  
 23 Cir. 2003).

### 24 **Applicable Law**

25 Rule 37 allows a party to move for a court order compelling discovery when  
 26 the opposing party fails to produce documents as requested under Rule 34. Fed. R.  
 27 Civ. P. 37(a)(3)(B)(iv). If a party objects to the requests for production, the  
 28 "objection must state whether any responsive materials are being withheld on the

1 basis of that objection.” Fed. R. Civ. P. 34(b)(2)(C). “[A]n evasive or incomplete  
2 disclosure, answer, or response must be treated as a failure to disclose, answer, or  
3 respond.” Fed. R. Civ. P. 37(a)(4).

4 When reviewing a motion to compel, the court must consider whether the  
5 discovery requests are relevant and proportional to the needs of the case. Fed. R.  
6 Civ. P. 26(b)(1). Relevant material includes, “any matter that bears on, or that  
7 reasonably could lead to other matter that could bear on, any issues that is or may  
8 be in a case.” *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978). The  
9 court has broad discretion in determining relevancy. *Id.*

10 Whether the requested material is proportional to the needs of the case  
11 depends upon: 1) the amount in controversy; 2) the parties’ relative access to  
12 relevant information; 3) the parties’ resources; 4) the importance of the discovery  
13 in resolving the issues; and 5) whether the burden or expense of the requested  
14 discovery outweighs its likely benefit. Fed. R. Civ. P. 26(b)(1).

### 15 16 Discussion

17 Plaintiff’s motion for reconsideration is granted because the Court  
18 misunderstood the facts. In the mix of multiple motions for protective order, the  
19 Court misunderstood the background of Plaintiff’s motion to compel.

20 After review, and being fully informed, Plaintiff requested relevant and  
21 proportional discovery from Chelan Fruit. The requested material is important to  
22 resolving this issue and Chelan Fruit has not articulated a burden or expense that  
23 outweighs the likely benefit of production for Plaintiff. The RFPs and insurance  
24 agreement relating to the SugarBee® Program are relevant and proportional to the  
25 allegations against Defendants by Plaintiff. Complete discovery answers and  
26 production of requested documents will assist in resolving this matter. The parties  
27 can then prepare for depositions and participate in the litigation in earnest.

1 Therefore, Plaintiff's motion for reconsideration is granted and the Court vacates  
2 its prior order as to Plaintiff's motion to compel.

3 Accordingly, **IT IS HEREBY ORDERED:**

4 1. Plaintiff's Motion for Reconsideration, ECF No. 99, is **GRANTED**.

5 2. Defendants must produce the requested documents with or without a  
6 confidentiality agreement by **no later than September 27, 2024**.

7 3. Plaintiff's motion for attorney fees in their motion to compel is  
8 **DENIED** because the delay was caused by the Court.

9 4. The Court's Order Denying Motion to Compel and Granting Motion  
10 to Quash, ECF No. 98, is **VACATED in part** as to the motion to compel.

11 5. Plaintiff's Motion to Compel, ECF No. 69, is **GRANTED**.

12 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
13 this Order and to provide copies to counsel.

14 **DATED** this 13th day of September 2024.



18  
19

A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

20 Stanley A. Bastian  
21 Chief United States District Judge  
22  
23  
24  
25  
26  
27  
28